



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARUO ICHIKAWA and AKIRA WAKABAYASHI

Application No. 09/996,974

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on May 3, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On December 20, 2004, appellants filed a Reply Brief. The examiner responded to appellants' Reply Brief in a communication mailed on January 25, 2005. Effective September 13, 2004, the rule under 37 CFR § 1.193 was abolished and replaced with 37 CFR § 41.43 (69 Fed. Reg. 49960 (August 12, 2004); 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)). According to 37 CFR § 41.43(a)(1):

After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's

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answer responding to any new issue raised in the reply brief.

A review of the application reveals that the examiner's response to appellants' Reply Brief filed on December 20, 2004 is not in compliance with 37 CFR § 41.43.

Accordingly, it is

ORDERED that the application is returned to the examiner to properly respond to appellants' Reply Brief filed on December 20, 2004, in compliance with rule 37 CFR § 41.43.

BOARD OF PATENT APPEALS
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